

§ 904.8

component and the energy component of the Base Charge shall be applied each billing period for each Contractor.

(e) The Base Charge shall be reviewed annually. The Base Charge shall be adjusted either upward or downward, when necessary and administratively feasible, to assure sufficient revenues to effect payment of all costs and financial obligations associated with the Project pursuant to paragraphs (b), (c), and (d) of § 904.5 of these General Regulations. The Administrator shall provide all Contractors an opportunity to comment on any proposed adjustment to the Base Charge pursuant to the DOE's power rate adjustment procedures then in effect.

§ 904.8 Lower basin development fund contribution charge.

(a) The Lower Basin Development Fund Contribution Charge will be developed by the Administrator of Western on the basis that the equivalent of 4½ mills or 2½ mills per kWh, as appropriate, required to be included in the rates charged to purchasers pursuant to section 1543(c)(2) of the Basin Act, as amended by the Hoover Power Plant Act, shall be collected from the energy sales of the Project.

(b) The Lower Basin Development Fund Contribution Charge shall be applied to each kWh made available to each Contractor, as provided for by Contract, except for the energy purchased by Western at the request of a Contractor to meet:

(1) That Contractor's deficiency in Firm Energy, pursuant to section 105(a)(2) of the Hoover Power Plant Act (43 U.S.C. 619(a)(2)) and section F of the Conformed Criteria; and

(2) That Contractor's Upgrading Program credit carry forward as provided by Contract. A 4½ mills per kWh charge shall be applied to each kWh made available to an Arizona Contractor, and a 2½ mills per kWh charge shall be applied to each kWh made available to a California or Nevada Contractor; provided, that after the repayment period of the Central Arizona Project, a 2½ mills per kWh charge shall be applied to each kWh made available to the Arizona, California, and Nevada Contractors. The Lower Basin Development Fund Contribution

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Charge shall be applied to energy overruns. The Lower Basin Development Fund Contribution Charge shall be applied each billing period for each Contractor.

§ 904.9 Excess capacity.

(a) If the Upgrading Program results in Excess Capacity, Western shall be entitled to such Excess Capacity to integrate the operation of the Boulder City Area Projects and other Federal Projects on the Colorado River. Specific criteria for the use of Excess Capacity by Western will be provided by Contract. All Excess Capacity not required by Western for the purposes specified by Contract will be available to all Contractors at no additional cost on a pro rata basis based on the ratio of each Contractor's Capacity allocation to the total Capacity allocation.

(b) Credits for benefits resulting from project integration shall be determined by Western and such benefits shall be apportioned in accordance with paragraph (9) of § 904.5 of these General Regulations.

§ 904.10 Excess energy.

(a) If excess Energy is determined by the United States to be available, it shall be made available to the Contractors, in accordance with the priority entitlement of section 105(a)(1)(C) of the Hoover Power Plant Act (43 U.S.C. 619(a)(1)(c)). After the annual first- and second-priority entitlement to excess energy has been obligated for delivery, Western will make available one-third of the third-priority excess energy to the Arizona Power Authority, one-third to the Colorado River Commission of Nevada, and one-third to the California Contractors.

(b) Western will make available third-priority excess energy to the California Contractors based on the following formula:

$F = \frac{1}{2} (A/B + C/D) (E)$; Where:

A=Contractor's allocated Capacity

B=Total California allocated Capacity

C=Contractor's allocated Firm Energy

D=Total California allocated Firm Energy

E=Third-priority Excess Energy available to California

F=Contractor's third-priority Excess Energy